

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VICTORIANO LOPEZ-FONTANEZ and DEPARTMENT OF VETERANS
AFFAIRS, Hato Rey, PR

*Docket No. 99-624; Submitted on the Record;
Issued September 19, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he sustained a heart condition causally related to factors of his federal employment.

On November 6, 1997 appellant, then a 71-year-old former field examiner, filed an occupational disease claim alleging that his open heart surgery was caused by factors of his federal employment. On the reverse side of the claim form, his supervisor, Mr. Lugo-Mariani, indicated that appellant had retired on disability effective October 3, 1997.

In a statement accompanying his claim, appellant related that his employment duties, which included traveling to neighboring islands interviewing veterans and their relatives, caused "a tremendous amount of stress." He stated that he experienced chest pain after returning from a trip on November 22, 1996 and had further problems on November 29 and 30, 1996. Appellant related that he went to the hospital on December 1, 1996 and learned that he had suffered two heart attacks. He stated that on December 10, 1996 he underwent open-heart surgery with five bypasses.

Mr. Lugo-Mariani submitted a statement corroborating appellant's allegation that he sustained stress in the performance of his daily duties. He stated that as part of his employment duties appellant operated a vehicle for long periods and interviewed veterans with severe mental impairments. Mr. Lugo-Mariani also noted that appellant had to transcribe reports on a personal computer "which constituted a significant change in his working conditions and presented a stressful activity."

In support of his claim, appellant submitted medical records pertaining to his hospitalization on December 1, 1996 for chest pain and his December 10, 1996 open heart surgery.

In a report dated July 27, 1997, Dr. Rafael Sanchez-Ponce, a Board-certified internist, discussed appellant's history of a myocardial infarction on December 1, 1996 and coronary artery bypass surgery on December 10, 1997. Dr. Sanchez-Ponce opined that appellant was "unfit for duty as a field examiner indefinitely."

In a form report dated November 17, 1997, Dr. Sanchez-Ponce diagnosed coronary artery disease and stated that "due to the ... nature of work and due to his surgery, [appellant] will not be able to continue field work as before." He checked "yes" that the condition was due to the injury for which appellant claimed compensation.

By letter dated May 20, 1998, the Office requested that Dr. Sanchez-Ponce provide a rationalized report addressing the cause of the diagnosed condition and its relationship to the factors of employment identified by appellant as causing his condition.

In a report dated June 26, 1998, Dr. Sanchez-Ponce discussed appellant's history of a myocardial infarction and bypass surgery in December 1996. He stated:

"It is possible that the stress of his job contributed to cause plaque instability leading to his [m]yocardial [i]nfarction. He has referred [that] he had complained of chest pressures in the weeks prior to his cardiac event but I began treating him after he presented with his [m]yocardial [i]nfarction."

By decision dated October 6, 1998, the Office denied appellant's claim on the grounds that the medical evidence did not establish a causal relationship between his condition and factors of his employment.

The Board finds that appellant has not established that his heart condition is causally related to factors of his federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.² Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.

¹ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁴

In the instant case, appellant maintained that he experienced stress in the performance of his day-to-day duties, which included extensive driving, traveling to various islands, interviewing veterans, and transcribing information onto a computer. As appellant has attributed his stress of his regularly assigned duties, he has alleged compensable factors of employment.⁵ The issue, therefore, is whether the medical evidence establishes that the compensable factors of employment caused or contributed to his heart condition.

Appellant has not submitted rationalized medical evidence establishing a causal relationship between his heart condition and any of the implicated employment factors. In a report dated July 27, 1997, Dr. Sanchez-Ponce, a Board-certified internist, discussed appellant's history of a myocardial infarction on December 1, 1996 and coronary artery bypass surgery on December 10, 1997. He opined that appellant was "unfit for duty as a field examiner indefinitely." Dr. Sanchez-Ponce, however, did not address the cause of appellant's disability from employment and thus his opinion is of little probative value.⁶

In a form report dated November 17, 1997, Dr. Sanchez-Ponce diagnosed coronary artery disease and checked "yes" that the condition was due to the injury for which appellant claimed compensation. However, the Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a claim.⁷

In a report dated June 26, 1998, Dr. Sanchez-Ponce discussed appellant's history of a myocardial infarction and bypass surgery in December 1996. He found that it was "possible that the stress of his job contributed to cause plaque instability leading to his [m]yocardial [i]nfarction." Dr. Sanchez-Ponce's opinion that job stress possibly contributed to appellant's

³ 5 U.S.C. §§ 8101-8193.

⁴ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Lillian Cutler*, *supra* note 4.

⁶ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁷ *Lee R. Haywood*, 48 ECAB 145 (1996).

myocardial infarction is couched in speculative terms and therefore is of little probative value.⁸ Further, he did not specifically discuss any of the employment factors identified by appellant as causing his condition.

An award of compensation may not be based upon surmise, conjecture or speculation, or upon appellant's belief that there is a causal relationship between his condition and his employment.⁹ To establish causal relationship, appellant must submit a physician's report in which the physician reviews that factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.¹⁰ Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

The decision of the Office of Workers' Compensation Programs dated October 6, 1998 is hereby affirmed.

Dated, Washington, DC
September 19, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁸ *Jennifer L. Sharp*, 48 ECAB 209 (1996) (medical opinions which are speculative or equivocal in nature have little probative value).

⁹ *William S. Wright*, 45 ECAB 498 (1993).

¹⁰ *Id.*